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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/696,561

10/30/2003

Patrick Euzen

PET-2105

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EXAMINER

NGUYEN, CAM N

ART UNIT

PAPER NUMBER

1754

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/24/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/696,561

Applicant(s)

EUZEN ET AL.

Examiner

Cam N. Nguyen

Art Unit

1754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/06/06 (an amendment/response).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 9-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) ~~1-18~~ is/are rejected. 1-18
- 7) ☒ Claim(s) 36-37 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicants' amendments and remarks, filed on 11/06/06, have been made of record and entered. Claims 1, 5-7, 9, 12-13, 18-19, 21, 24-25, 30, & 35 have been amended. Claims 36 & 37 have been added.

Claims 1-37 are currently pending in this application.

Status of Withdrawn Claims

2. This application contains claims 19-35 are drawn to an invention nonelected with traverse in Paper No. Dated April 21, 2006. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 102(e)

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Benazzi et al., "hereinafter Benazzi", (US Pat. 6,733,657).

Benazzi discloses a catalyst comprising at least one hydro-dehydrogenating element and a substrate comprising silica-alumina material, wherein said silica-alumina material having the following characteristics: a silica content of 10-60% by weight, a sodium content of less than 300 ppm by weight, a total pore volume of between 0.5 and 1.2 ml/g, a volume of mesopores with a diameter of between 40-150 Å, and a mean diameter of between 80-120 Å representing 30-80% of the total pore volume, a volume of macropores with a diameter of greater than 500 Å representing 20-80% of the total pore volume, and a specific surface area of greater than 200 m²/g (see col. 12, claim 1). The silica-alumina comprises Al_{VI} (octahedral) species and Al_{IV} (tetrahedral) species, and wherein the proportion of the tetrahedral Al_{IV} is between 20% and 40% (see col. 12, claim 2). See also col. 12, claim 3. the catalyst further comprising at least one of boron and silicon (see col. 12, claim 4). See col. 12, claims 5 & 6 for additional metals. See also col. 2, ln 50- col. 12, ln 7, for more details regarding catalyst properties and hydrogenation elements.

No patentable distinction is seen between the claimed catalyst and that disclosed by Benazzi. Thus, the claims are anticipated by the teaching of the reference.

Claim Rejections - 35 USC § 102(b)

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claim 1-18 are rejected under 35 U.S.C. 102(b) as anticipated by Sherwood, Jr. et al., "hereinafter Sherwood, Jr.", (US Pat. 6,136,179).

Sherwood, Jr. discloses a catalyst, which comprises a Group VIII non-noble metal oxide, and a Group VI-B metal oxide on an alumina or silica-alumina support; etc. (see col.14, claim 1, ln 30-33). The Group VIII non-noble metal oxide is nickel oxide and the Group VI-B metal oxide is molybdenum oxide (see col. 14, claim 2). The alumina or silica-alumina has a Total Surface Area from about 150 to 240 m²/g, a Total Pore Volume (TPV) from 0.7 and 0.98 and a pore diameter distribution such that no more than 20% of the TPV is present as primary micropores having diameters no greater than 100 Å, at least about 34% of the TPV is present as secondary micropores having diameter from about 100 to 200 Å, and from about 26% to 46% of the TPV is present as macropores having diameters of at least 200Å (see col. 14, claim 3). See also col. 5, ln 40- col. 11, ln 20, & Examples for more details regarding the catalyst properties.

No patentable distinction is seen between the claimed catalyst and that disclosed by Sherwood, Jr. Thus the claims are anticipated by the teaching of the reference.

Allowable Subject Matter

7. Claims 36 & 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Applicants' Arguments

8. Applicants' amendment and remarks filed on November 06, 2006 has been fully considered, but not deemed persuasive for the following reasons.

Applicants' urged, that the applied references do not teach the claimed limitation on "pore volume, measured by mercury porosimetry, in the pores with diameters of more than 500 Å, of less than 0.1 ml/g" has been noted. It would appear that the disclosed pore volume of 0.1 – 0.96 ml/g in the Benazzi reference, wherein the lower pore volume value of "0.1 ml/g" is very close to the claimed pore volume of "less than 0.1 ml/g" that the claimed catalyst is inherently the same as the disclosed catalyst. In view of *In re O' Farrell*, 853 F. 2d 894, 904, 7 USPQ 2d, 673, that when the values in the compositions are close to each other that the compositions are inherently the same.

Applicants' urging regarding the Sherwood reference has also been noted. It is not found persuasive for the same reasons as above.

The claimed catalyst does not appear to be distinguished from the catalyst of the references. Thus, the rejections are therefore maintained.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

10. Claims 1-37 are pending. Claims 1-18 are rejected. Claims 36 & 37 are objected. Claims 19-35 are withdrawn due to nonelected (distinct) invention (s). No claims are allowed.

Contacts

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Primary Examiner Cam N Nguyen, whose telephone number is 571-272-1357. The examiner can normally be reached on M-F, 9:00 AM - 6:30 PM, at alternative work site.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cam N. Nguyen/

Nguyen/cnn

Primary Examiner

January 18, 2007

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